

WILMERHALE

December 22, 2014

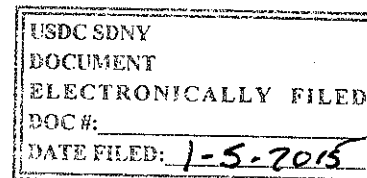
Peter J. Macdonald

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Honorable Cathy Seibel
United States District Court
for the Southern District of New York
The Honorable Charles L. Brieant Jr. Federal Building and
United States Courthouse, Room 218
300 Quarropas Street
White Plains, NY 10601-4150

Re: *Bozella v. County of Dutchess*, No. 10 Civ. 4917 (S.D.N.Y.)

Dear Judge Seibel:



I am writing on behalf of Plaintiff Dewey Bozella to ask leave to submit a short reply memorandum to address the "ancient documents" arguments asserted by the County in three of its opposition filings. (Docket Entries 260, 261 and 262).

The County relies on the ancient document exception to the rule against hearsay and the ancient document rationale for authentication to justify admission of six categories of evidence now that were inadmissible in Mr. Bozella's 1983 and 1990 criminal trials (the "Suspect Evidence"). The proposed reply memorandum (not to exceed 10 pages) will assist the Court in ruling on this evidence. Most importantly, it identifies the authorities that demonstrate that neither the authentication rule nor the hearsay exception justify admission where (as is the case with all of the Suspect Evidence under the County's theories) an "ancient document" was created in anticipation of litigation, there existed at that time a motive to falsify such evidence, and the evidence is being offered now for the same reason it was created decades ago. Mr. Bozella will be able to submit the proposed brief reply within 24 hours of receiving the requested permission.

Respectfully submitted,



Peter J. Macdonald

cc: Patrick T. Burke, Esq. (via fax)
Michael Burke, Esq. (via fax)
Louis M. Freeman, Esq. (via fax)

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FACSIMILE

Date December 22, 2014

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From Peter J. Macdonald

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Re ***Bozella v. County of Dutchess, No. 10 Civ. 4917 (S.D.N.Y.)*** Letter Requesting to Leave to
Submit a Short Reply Memorandum

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